

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL R. NAPERT,)	
)	
Plaintiff,)	
)	
vs.)	
)	
GOVERNMENT EMPLOYEES INSURANCE)	Civil Action No.: 13-10530
COMPANY,)	
)	
Defendant.)	
)	
)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Government Employees Insurance Company (“Defendant” or “GEICO”) hereby removes the Civil Action captioned *Michael R. Napert v. Government Employees Insurance Company*, Case No. BRCV2013-00070 (the “State Court Action”), from the Superior Court Department, Bristol County, Massachusetts, to the United States District Court for the District of Massachusetts, Eastern Division. As grounds for removal, Defendant states as follows:

1. Plaintiff filed his First Amended Complaint and Jury Trial Demand (“Complaint”) on January 22, 2013 along with his Civil Action Cover Sheet. GEICO was served on February 7, 2013. All of the papers that were served on GEICO are attached hereto as Exhibit 1. See 28 U.S.C. § 1446(a).
2. Pursuant to the Complaint, Plaintiff is a resident of Massachusetts.
3. Defendant is a Maryland corporation with a principle place of business in Maryland.

4. A copy of the Plaintiff's Civil Action Cover Sheet, which was not served on GEICO, but sent to GEICO's counsel on March 4, 2013, is attached hereto as Exhibit 2.

5. Plaintiff claims \$25,000 in damages for lost wages and compensation under Mass. Gen. Laws c. 149 § 148 and c. 151 § 1A.

6. Plaintiff also claims he is entitled to damages equal to three times the amount of compensation owed to him pursuant to Mass. Gen. Laws c. 149 § 150 and c. 151 § 1A.

7. "Where the statute governing the claim includes a multiplier of damages, the court must consider the multiplier when calculating the amount in controversy." Spencer v. Marriott Int'l, Inc., 2011 U.S. Dist. LEXIS 147559, *10 (Nov. 25, 2011) (granting diversity jurisdiction based upon mandatory treble damages of M.G.L. c. 149 § 150).

8. The amount in controversy, pursuant to the trebling statutes, satisfies the \$75,000 minimum amount in controversy threshold for federal subject matter jurisdiction. *See* 28 U.S.C. § 1332(a); *See Spencer v. Marriott Int'l, Inc.*, 2011 U.S. Dist. LEXIS 147559, *10 (Nov. 25, 2011), quoting Esquilin-Mendoza v. Don King Productions, Inc., 638 F.3d 1, 4 (1st Cir. 2011) (amount in controversy is not met "only when, from the face of the pleadings, it is apparent, to a legal certainty, that the plaintiff was never entitled to recover a sum equal to, or in excess of, the jurisdictional minimum.")

9. Because the federal district courts have original jurisdiction over this action pursuant to 28 U.S.C. § 1332, it may be removed to the district court of the United States for the district and division embracing the place where the action is pending, which is this Court. *See* 28 U.S.C. § 1441; Local Rule 40.1(C).

10. GEICO is the only defendant in this action, and therefore no other party's consent is required for removal.

11. This Notice is being filed within 30 days after service of the Summons and Complaint on Defendant and is, therefore, timely filed pursuant to 28 U.S.C. § 1446(b).

12. In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be served on Plaintiff. A copy of the Notice of Removal and supporting papers will also be filed with the Clerk of the Superior Court Department, Bristol County, Massachusetts.

Respectfully submitted,
GOVERNMENT EMPLOYEES
INSURANCE COMPANY
By its attorneys,

/s/Andrea L. Martin
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Dated: March 8, 2013

CERTIFICATE OF SERVICE

I hereby certify that this document is being filed through the Court's ECF system on March 8, 2013 which will send an electronic copy of the document to the registered participants as identified on the Notice of Electronic Filing (NEF), a copy will also be sent by electronic mail to the following and a paper copy will be sent by U.S. mail to:

Sonja L. Deyoe
Kirwan Law
250F Centerville Road
Warwick, RI 02886

/s/Andrea L. Martin
Andrea L. Martin

4820-4684-3155.1